IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1364 (S/S) of 2005

Prakash Singh Garbiyal,
Son of Sri K.S. Garbiyal,
Excise Inspector, Ranikhet, Almora,
District – Almora. ……Petitioner.

Versus

1. State of U.P. through Secretary, Excise Department, Dehradun.
2. Commissioner, Excise, Uttaranchal, Dehradun.

……Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri Rajendra Dobhal and Sri Lalit Samant, learned counsel for the petitioner and learned standing counsel for the State Uttaranchal, who has accepted notices on behalf of respondents.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By means of this writ petition, petitioner has challenged the order dated 12.09.2005 passed by respondent no. 2 i.e. Excise Commissioner, Uttaranchal, Dehradun, suspending the petitioner, who was working as Excise Inspector, Almora.

An inspection conducted by the Deputy Excise Commissioner, Dehradun on 09.08.2005 in which the Deputy Excise Commissioner, Dehradun found that 38 full bottles, 53 half bottles and 138 quarter bottles of country liquor were in excess in the depot.

On this charge, petitioner was suspended by respondent no. 2 vide order dated 12.09.2005. Charge-sheet has already been issued to the petitioner on 12.09.2005.

The submission of the petitioner is that there are about one lakh bottles including all full, half and quarter bottles of country liquor in the depot and difference of about 200 bottles was simply a counting mistake.

Learned counsel for the petitioner has submitted that it was not a serious charge as the bottles were in excess in the depot and the petitioner as well as In-charge depot are having key of the depot. In case, there was shortage of bottles of country liquor then of course it could be treated as a serious charge. Excess of bottles that too in the godown cannot be termed as serious charge and as such, it was not warranted to issue suspension order.

Provision of Rule 4 of the Government Servant (Discipline and Appeal Rules) 1991 provides that suspension order should not be resorted unless the allegations against Government Servant are so serious that in the event of their being established may ordinarily warrant major penalty.

Learned counsel for the petitioner has further submitted that Departmental Promotion Committee is scheduled to be held on 22.09.2005 for promotion of Excise Inspector to the post of District Excise Officer and the suspension order was passed against the petitioner would definitely affect the chance of promotion of petitioner and the charge leveled against the petitioner is

not serious as in the godown there are more than one lakh of bottles of country liquor and presence of few bottles in excess in the godown cannot be treated serious charge because there was every possibility of mistake in counting of bottles at the time when the depot received the bottles or at the time when the bottles were counted by the Inspector.

In view of the circumstances aforesaid, I think it just and proper to direct the respondent to keep suspension order in abeyance till the inquiry against the petitioner is concluded and the respondents are further directed to conclude the inquiry within a period of three months. The petitioner is directed to produce the certified copy of this order before respondents within a period of one week from today and shall also file his reply against the charges leveled against him within a period of three weeks. In any case, the inquiry shall be concluded by the respondents before 31.12.2005.

With this direction the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

September 19, 2005
SKSharma